REMARKS

The Abstract and Title have been amended to correct matters of form and one or more typographical errors. It is respectfully submitted that no new matter has been introduced.

Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

Claim 2 has been amended for reasons unrelated to patentability, including at least one of: to explicitly present one or more elements implicit in the claim as originally written when viewed in light of the specification thereby not narrowing the scope of the claim, to detect infringement more easily, to enlarge the scope of infringement, to cover different kinds of infringement (direct, indirect, contributory, induced, and/or importation, etc.), to expedite the issuance of a claim of particular current licensing interest, to target the claim to a party currently interested in licensing certain embodiments, to enlarge the royalty base of the claim, to cover a particular product or person in the marketplace, to target the claim to a particular industry; non-substantive, stylistic reasons; and/or addressing an informality.

Claims 1-3 are now pending in this application. Claims 1-3 are the independent claims.

I.   The Objection to the Abstract

The Abstract has been amended to meet the requirements of MPEP 608.10. Reconsideration and withdrawal of the objection to the abstract is respectfully requested.

II.   The Objection to the Abstract

The title has been amended to meet the requirements of 37 CFR 1.72 and MPEP 606. Reconsideration and withdrawal of the objection to the title is respectfully requested.

III.   The Objection to Claim 2

Claim 2 was objected to because of informalities. Claim 2 has been amended to correct all informalities. Therefore, Applicants respectfully submit that any grounds for this objection have been removed, and respectfully request acknowledgment thereof.

IV.   The Anticipation Rejection

Claims 1-3 were rejected as anticipated under 35 U.S.C. §102(e). In support of the rejection, Wood et al. (U.S. Publication No. US 2002/0045154 A1) was cited. This rejection is respectfully traversed.

Wood et al. fails to establish a prima facie case of anticipation. See MPEP 2131. To anticipate expressly, the "invention must have been known to the art in the detail of the claim; that is, all of the elements and limitations of the claim must be shown in a single prior art reference, arranged as in the claim". *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001). The single reference must describe the claimed subject matter "with sufficient clarity and detail to establish that the subject matter existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention". *Crown Operations Int'l, LTD v. Solutia Inc.*, 289 F.3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002). Moreover, the prior art reference must be sufficient to enable one with ordinary skill in the art to practice the claimed invention. *In re Borst*, 345 F.2d 851, 855, 145 USPQ 554, 557 (C.C.P.A. 1965), *cert. denied*, 382 U.S. 973 (1966); *Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1354, 65 USPQ2d 1385, ___ (Fed. Cir. Jan. 6, 2003) ("A claimed invention cannot be anticipated by a prior art reference if the allegedly anticipatory disclosures cited as prior art are not enabled").

Specifically, each of claims 1-3 recite "refining a survey via bestfit clustering". The specification of the current application, at page 12, lines 12-14, define "bestfit clustering" as a "segmentation algorithm that maximizes 'fit' as the (weighted) number of questions for which a

respondent's answers correspond to the mode of responses of that particular respondent's segment." Wood et al. does not teach expressly or inherently "bestfit clustering" or a "mode of responses". Instead, Wood at most recites "a node" that is "defined as weighted averages of dimensions and user traits". See Wood at page 8, paragraphs 182-188. Wood does not teach expressly or inherently that these "dimensions and user traits" are "questions" or relate to "answers" that "correspond to the mode of responses". In fact, Wood makes no mention of a "mode" in the statistical sense whatsoever. Accordingly, it is respectfully submitted that the rejection of claims 1-3 is unsupported by Wood et al. and should be withdrawn.
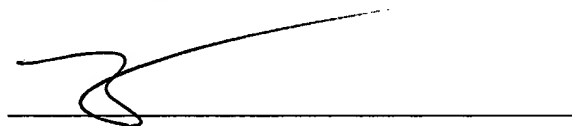
CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC

Date: _15 Jan 2009_

Michael N. Haynes
Registration No. 40,014

1341 Huntersfield Close
Keswick, VA 22947
Telephone: 434-972-9988
Facsimile: 413-375-4232